



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

AUG 23 2012

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Numbers: 7005 3110 0000 5952 7603 - 7005 3110 0000 5952 7610

Mr. Matt DiGiovanni, Assistant Project Manager
Clark Developers, LLC
292 Terminal Avenue
Clark Township, New Jersey 07066

Mr. Matt DiGiovanni, Assistant Project Manager
Clark Developers, LLC
820 Morris Turnpike
Short Hills, New Jersey 07078

Re: **Clark Developers, LLC construction site at 268-300 Terminal Avenue, Clark, NJ 07066**
Administrative Order CWA-02-2012-3061
NPDES Tracking No.: NJG0190055

Dear Mr. DiGiovanni:

The United States Environmental Protection Agency ("EPA"), Region 2, has made a finding that the subject facility, is in violation of the Clean Water Act (33 U.S.C. §1251 et seq.) ("CWA" or "Act") for violations as described in the findings of the enclosed Administrative Compliance Order ("Order"). Enclosed are two (2) originals of the Order issued pursuant to Sections 301 and 309 of the Act, which detail the findings.

Please acknowledge receipt of this Order by signing one of the original Orders on the acknowledgement page and returning the acknowledgement page along with one of the original copies of the Order by mail in the enclosed envelope. Failure to comply with the enclosed Order may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act and subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

Also enclosed is the Compliance Evaluation Inspection ("CEI") report for the CEI conducted by EPA at the above mentioned site on July 18, 2012.

For further information on EPA's Storm Water Program such as Best Management Practices and Storm Water Controls see EPA's web site at <http://cfpub2.epa.gov/npdes/stormwater/const.cfm> and New Jersey Department of Environmental Protection's website at <http://www.state.nj.us/dep/stormwater/>.

If you have any questions regarding the Order, or CEI Report, please contact Ms. Justine Modigliani, Compliance Section Chief at (212) 637-4268 or Ms. Kimberly McEathron, of my staff, at (212) 637-4228.

Sincerely,

for Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Marcedius T. Jameson, NJDEP w/enclosures
William Laskowski, Somerset-Union Soil Conservation District (electronic)

Internet Address (URL) • <http://www.epa.gov>

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Clark Developers, LLC
820 Morris Turnpike
Short Hills, New Jersey 07078

NPDES Tracking No. NJG0190055

Proceeding pursuant to Sections 301, 308 and
309(a) of the Clean Water Act, 33 U.S.C. §§ 1311,
1318 and 1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER

CWA-02-2012-3061

The following Findings of Violation are made, and Order for Compliance ("Order") issued, pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1318(a) and 1319(a)(3). The authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

A. Legal Authority

1. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, inter alia, Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that section.
3. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New Jersey Department of Environmental Protection ("NJDEP") is the agency with the authority to administer the federal NPDES program in New Jersey pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NJDEP by the EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b), a New Jersey Pollutant Discharge Elimination System ("NJPDES") permit is required to be issued to facilities by the NJDEP for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.
4. The Administrator of EPA has promulgated regulations, 40 C.F.R. § 122.26(a)(1)(ii), § 122.26(b)(14), and § 122.26(b)(15)(i), which require operators to obtain a NPDES permit for

storm water discharges associated with industrial activity. The regulations at 40 C.F.R. § 122.26(b)(14)(x) and 40 C.F.R. § 122.26(b)(15)(i) establish requirements for storm water discharges associated with industrial activity from construction sites which include clearing, grading and excavation activities that result in the disturbance of one (1) or more acres of total land area.

5. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association or municipality.
6. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), to include the waters of the United States and "waters of the United States" are defined in 40 C.F.R. § 122.2, to include, among other things, intrastate rivers and streams, the use, degradation, or destruction of which would affect or could affect interstate commerce.
8. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
9. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12), to mean any addition of any pollutant to navigable waters from any point source.
10. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth the requirements for the discharges of stormwater.
11. The terms "Construction General Permit", "CGP" or "Permit" mean the New Jersey Department of Environmental Protection ("NJDEP") NJPDES Construction Activity Stormwater General Permit No. NJG0088323, issued on March 1, 2012.
12. Part H.1 of the CGP cites the New Jersey Administrative Code ("N.J.A.C.") 7:14A and defines construction activities to include clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre.
13. The term "SPPP" means Stormwater Pollution Prevention Plan as defined in the CGP.
14. The Part A.2 of the CGP cites N.J.A.C. 7:14A-1.2 and defines an Operating entity and Owner/Operator, respectively as follows:
 - a. "Operating entity" or "operator" means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility.
 - b. "Owner or operator" means the owner or operator of any facility or activity subject to this chapter.

15. Operators regulated under 40 C.F.R. § 122.26(b)(14)(x) or 40 C.F.R. § 122.26(b)(15)(i) must seek CGP coverage in New Jersey by filing a Request for Authorization (“RFA”) form in accordance with the terms and conditions of the CGP (NJG0088323).
16. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes EPA to commence an administrative enforcement action for violations of “any condition or limitation which implements [among others, sections 301 or 402]” of the CWA, and to “issue an order requiring [compliance with the applicable] section or requirement . . .”.

B. Findings

1. Clark Developers, LLC is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
2. Clark Developers, LLC, Edison Route 27 Associates, LLC and Raritan Town Square, LLC are subsidiary companies of Garden Homes, Inc.
3. On August 21, 2008, EPA inspected an Edison Route 27 Associates, LLC construction site located in Edison, New Jersey, identified violations of the CGP and as a result issued an Administrative Order and a Class I Administrative Penalty Order (CWA-02-2009-3311) for violations of the CGP.
4. On July 23, 2009, EPA inspected a Raritan Town Square, LLC construction site located in Raritan Township, New Jersey, identified violations of the CGP and as a result issued an Administrative Order (CWA-02-2009-3072) and a Class II Administrative Penalty Order (CWA-02-2010-3405) for violations of the CGP.
5. Clark Developers, LLC owns and operates the Clark Developers, LLC construction site at 268-300 Terminal Avenue and 1245-1255 Westfield Avenue in Clark Township, New Jersey (“Site” or “Facility”).
6. Clark Developers, LLC has conducted construction activities, consisting of clearing, grading and excavating, on approximately ten (10) acres at the Site.
7. On March 31, 2011, Clark Developers, LLC obtained coverage under the NJDEP NJPDES CGP for the Site under Application Number 2011-0108 and Permit ID No. NJG0190055.
8. Stormwater discharges from the Site flow into the Robinson Branch Tributary of the Rahway River, a water of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), via an on-site storm sewer system including an outfall pipe, a point source pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
9. On July 18, 2012, EPA conducted a Compliance Evaluation Inspection (“CEI”) of the Site and identified the following violations of the CGP:
 - a. Part E.1 of the CGP states that “construction activity that may result in a stormwater discharge authorized by this permit shall be executed only in accordance with a Stormwater Pollution Prevention Plan (“SPPP”) that consists of the soil erosion and sediment control component (“SESCP”) and the construction site waste control

component.” Clark Developers, LLC failed to comply with the requirements of Part E.1 of the CGP as follows:

- i. Clark Developers, LLC failed to develop, implement and maintain the SESCO component of the SPPP in the following ways, as required by Part E.1.a of the CGP:
 1. Perimeter silt fencing was not installed along the northeastern and southeastern property lines of the Site, as specified in the SESCO component of the SPPP;
 2. Rips that formed holes in the installed perimeter silt fencing were observed at two (2) locations along the western and northwestern property line of the Site near the Robinson Branch Tributary;
 3. Perimeter silt fencing was observed not keyed into the ground on the south side of the outfall structure, from which the EPA inspectors observed an erosion channel from the Site, under the silt fence and extending into the Robinson Branch Tributary;
 4. Perimeter silt fencing was observed down and a sediment path from the uncovered soil stockpiles, over the down silt fencing and into the Robinson Branch Tributary was observed;
 5. Perimeter silt fencing was observed down on the north and east side of the outfall structure;
 6. One (1) stormwater catch basin on-site contained torn filter fabric that was ineffective at preventing sediment from depositing into the stormwater catch basin; and
 7. Three (3) stormwater catch basins on-site did not contain filter fabric, as specified in the SESCO component of the SPPP.
- ii. Clark Developers, LLC failed to develop and implement the Construction Site Waste Control Component of the SPPP as required by Part E.1.d and Part J of the CGP as follows:
 1. The Site’s SESCO did not contain waste control practices and a construction site waste control plan was not provided at the time of the inspection, as required by Part E.1.d of the CGP;
 2. The designated concrete washout was not lined and bermed and was not clearly designated with a sign, as required by Part J.4.b of the CGP; and
 3. Concrete washout was observed on the ground outside of the designated concrete washout area, in violation of Part J.4.b of the CGP.
- b. Part E.3 of the CGP states that the permittee shall conduct and document weekly inspections of the areas of industrial activity to identify areas contributing to the stormwater discharge authorized by this permit and evaluate whether the SPPP is being properly implemented and maintained, or whether additional measures are needed to implement the SPPP. Clark Developers, LLC failed to document weekly inspections from the start of the construction (May 2012) to the date of the EPA inspection (July 18, 2012).

10. Therefore, on the basis of the findings cited in paragraphs 1-9 of section B above, Clark Developers, LLC is in violation of § 301 and § 402 of the CWA.

C. Ordered Provisions

Based on the Findings of Violation set forth above, and pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a)(3), Clark Developers, LLC is hereby ORDERED to take the following actions:

1. Immediately upon receipt of the original copies of this Administrative Order ("AO" or "Order"), a responsible official of Clark Developers, LLC shall complete and sign one of the original Orders on the acknowledgement page and return the acknowledgement page along with one of the originals of the Order to the Chief, Compliance Section, Water Compliance Branch, Division of Enforcement and Compliance Assistance, at the address listed below by certified mail or its equivalent.
2. Within twenty-five (25) calendar days of receipt of this Order, Clark Developers, LLC shall:
 - a. Implement the Soil Erosion and Sediment Control Plan portion of the SPPP, dated April 18, 2012 at the Site, as required by the CGP;
 - b. Maintain implemented soil erosion control practices at the Site, as required by the CGP;
 - c. Develop and implement a Construction Site Waste Control component of the SPPP at the Site, as required by the CGP;
 - d. Conduct and document weekly inspections of the Site, as required by the CGP; and
 - e. Address all violations described in the Findings above and the Areas of Concern in the enclosed July 18, 2012 CEI report.
3. Within thirty (30) calendar days of receipt of this Order, Clark Developers, LLC shall submit to EPA written documentation with accompanying photographs describing what measures were taken to address each item of the Ordered Provisions above, in accordance with Section 308 of the CWA, 33 U.S.C. § 1318.
4. All information required to be submitted by this Order shall be sent by certified mail or its equivalent to the following address:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency
290 Broadway, 20th Floor
New York, NY 10007-1866

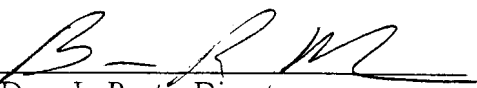

D. General Provisions

1. Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR §122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the Ordered provisions, with the following designated Agency representative: Ms. Justine Modigliani, Compliance Section Chief, Water Compliance Branch, 290 Broadway-20th Floor, New York, NY 10007, (212) 637-4228. Unless the Agency official issuing the Order decides otherwise, the Ordered Provisions shall become effective at the expiration of said period for consultation.
3. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.
4. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
5. Notice is hereby given that should EPA commence an action in a United States District Court for a violation of any Ordered Provision of this Order Respondent may be subject to (1) civil penalties up to \$37,500 per day for each day of violation, pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and/or (2) injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), as imposed by the Court.
6. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.

This Order shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: 6/23/12 Signed: 
Dore LaPosta, Director
 Division of Enforcement and Compliance Assistance

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Clark Developers, LLC
820 Morris Turnpike
Short Hills, New Jersey 07078

NPDES Tracking No. NJG0190055

Proceeding pursuant to Sections 301, 308 and 309(a)
of the Clean Water Act, 33 U.S.C. §§ 1311, 1318
and 1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER

CWA-02-2012-3061

ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE COMPLIANCE ORDER

I, _____, an officer of Clark Developers, LLC with the title of,
_____, do hereby acknowledge the receipt of copy of the ADMINISTRATIVE
COMPLIANCE ORDER, CWA-02-2012-3061.

DATE: _____ SIGNED: _____



United States Environmental Protection Agency
Washington, D.C. 20460
Water Compliance Inspection Report

Form Approved.
OMB No. 2040-0057

Section A: National Data System Coding (i.e., PCS)

Transaction Code		NPDES										yr/mo/day		Inspection Type		Inspector		Fac Type										
1	N	2	5	3	N	J	0	1	9	0	0	5	5	11	12	1	2	0	7	1	8	17	18	}	19	R	20	2
Remarks																												
21																												
66																												
Inspection Work Days Facility Self-Monitoring Evaluation Rating B1 QA Reserved																												
67 1 69 70 71 72 73 74 75 80																												

Section B: Facility Data

Name and Location of Facility Inspected (for industrial users discharging to POTW, also include POTW name and NPDES permit number)		Entry Time/Date		Permit Effective Date			
Clark Developers, LLC Construction Site 268-300 Terminal Avenue and 1245-1255 Westfield Avenue Clark Township, NJ 07066		2:00 PM / 07/18/2012		03/01/2012			
		Exit Time/Date		Permit Expiration Date			
		3:12 PM / 07/18/2012					
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)		Other Facility Data					
Matt DiGiovanni, Assistant Project Manager, Clark Developers, LLC 292 Terminal Avenue, Clark Township, NJ 07066 Phone: 908-403-1990		SIC Code 1522 Regulated under NJDEP's CGP (NJG0088323) Ch. 251 App. No. 2011-0108 Lat, Long: 40.625907, -74.323325					
Name, Address of Responsible Official/Title/Phone and Fax Number(s)							
Matt DiGiovanni, Assistant Project Manager, Clark Developers, LLC 820 Morris Turnpike, Short Hills, NJ 07078 Phone: 908-403-1990							
		Contacted					
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

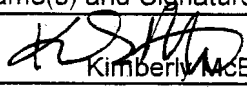
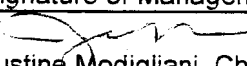
<input checked="" type="checkbox"/> Permit	Flow Measurement	Operations & Maintenance	CSO/SSO (Sewer Overflow)
<input checked="" type="checkbox"/> Records/Reports	Self-Monitoring Program	Sludge Handling/Disposal	<input checked="" type="checkbox"/> Pollution Prevention
<input checked="" type="checkbox"/> Facility Site Review	Compliance Schedules	Pretreatment	Multimedia
<input type="checkbox"/> Effluent/Receiving Water	Laboratory	<input checked="" type="checkbox"/> Storm Water	Other:

Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)

See Attached Report.

Also present on site at the time of the inspection:

Tony Malfitano, Clark Developers, LLC
Daniel Matarese, Danco General Contracting, Phone: 732-580-9090

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
 Kimberly McEathron / Eric Weinberg	EPA/WCB/ (212) 637-4228 / (212) 637-4282 Fax (212) 637-4211	7/25/12
Signature of Management Q/A Reviewer	Agency/Office/Phone and Fax Numbers	Date
 Justine Modigliani, Chief, Compliance Section	EPA/DECA-WCB/(212) 637-4268 Fax (212) 637-4211	8/7/12

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2, DECA-WCB
20th Floor, 290 Broadway, NY, NY 10007

COMPLIANCE EVALUATION INSPECTION REPORT

Compliance Evaluation Inspection: Clark Developers, LLC	
Inspection Date: July 18, 2012	EPA Inspectors: Kimberly McEathron, Physical Scientist, USEPA Region 2, (212) 637-4228; Eric Weinberg, Intern, USEPA Region 2, (212) 637-4282
Inspection Time: 2:00 PM – 3:12 PM	
On-Site Representatives: Matt DiGiovanni, Assistant Project Manager, Clark Developers, LLC, 292 Terminal Avenue, Clark Township, NJ 07066, (908) 403-1990 Tony Malfitano, Clark Developers, LLC, 820 Morris Turnpike, Short Hills, NJ 07078	
Other Attendees: Daniel Matarese, Danco General Contracting, Morganville, NJ, (732) 580-9090	
Site Information:	Clark Developers, LLC 268-300 Terminal Avenue and 1245-1255 Westfield Avenue Clark Township, NJ 07066 NPDES/ICIS No. NJG0190055
SIC Code:	1522 - Residential Buildings, Other Than Single-Family Residences
Facility Owner and Address: Clark Developers, LLC 820 Morris Turnpike Short Hills, NJ 07078 Clark Developers, LLC is a subsidiary of Garden Homes, Inc.	

INTRODUCTION:

On July 18, 2012, the United States Environmental Protection Agency (EPA) conducted a Federal lead Compliance Evaluation Inspection (CEI) at the Clark Developers, LLC construction site located at 268-300 Terminal Avenue and 1245-1255 Westfield Avenue in Clark Township, New Jersey, Union County (Site). Kimberly McEathron and Eric Weinberg of EPA's Division of Enforcement and Compliance Assistance, Water Compliance Branch (DECA-WCB) conducted the inspection. Matt DiGiovanni of Clark Developers, LLC, the Assistant Project Manager, represented the Site and Tony Malfitano, of Clark Developers, LLC was also present. Weather conditions at the time of the inspection were hot, humid, dry and approximately 100 degrees Fahrenheit.

Clark Developers, LLC submitted a Request for Authorization (RFA) and obtained coverage for the Site under the New Jersey Department of Environmental Protection's (NJDEPs) Construction Activity Stormwater General Permit (NJG0088323) (CGP) on March 31, 2011 under Application Number 2011-0108 (Permit ID No. NJG0190055).

INSPECTION PROCEDURE:

Upon arrival at the Site, EPA Inspector McEathron presented credentials to Mr. DiGiovanni the Assistant Project Manager and Mr. Malfitano of Clark Developers, LLC. While on-site, EPA Inspectors conducted an opening conference with Mr. DiGiovanni and Mr. Malfitano, a field inspection, reviewed records and took photographs of potential non-compliance items and areas of concern at the Site and surrounding areas. At the conclusion of the inspection, a closing conference was held with Mr. DiGiovanni to discuss the findings and observations of the inspection.

FINDINGS & OBSERVATIONS:

According to Mr. DiGiovanni, demolition at the Site began a little over a year prior to this EPA inspection. At that time, all seven (7) original buildings were demolished. According to Site plans, a total of six (6) senior housing buildings will be constructed as part of this construction project. According to Mr. DiGiovanni, construction at the Site began early May 2012 after demolition was complete. At the time of the inspection, approximately ten (10) acres of soil at the Site were disturbed and the foundation of one (1) building had been completed (see photograph P7180030.JPG).

During the inspection, Mr. Malfitano provided EPA with the Site's Soil Erosion and Sediment Control Plan (SESCP) dated April 18, 2012 and consisted of site plans, soil erosion control practices also known as Best Management Practices (BMPs) and an implementation schedule. The SESCO implementation schedule states that the soil erosion control practices are to be installed prior to the start of construction. Soil erosion control practices in the SESCO included silt fencing along the entire perimeter of the Site, a stone stabilized entranceway and filter fabric inlet protection on all existing stormwater catch basins. Soil erosion control practices observed on-site included perimeter silt fencing installed along the north, west and southern boundaries of the Site, and filter fabric installed in one (1) existing stormwater catch basin. At the time of the inspection, Terminal Avenue was paved for approximately 200 feet into the Site and then continued as dirt and gravel southwest (see photograph P7180052.JPG). Sediment tracking on the paved portion of Terminal Avenue was observed within the Site's property but sediment tracking did not extend onto Westfield Avenue at the time of the inspection (see photograph P7180057.JPG). According to Mr. DiGiovanni, a hose is used to disperse water at the Site for the purposes of controlling dust.

The Site's SESCO did not contain waste control practices and a construction site waste control plan was not provided at the time of inspection. Mr. DiGiovanni stated that the designated concrete washout area is located in the northeast section of the Site. At the time of the inspection, the designated concrete washout was not lined and bermed and was not clearly designated with a sign indicating the areas use (see photograph P7180032.JPG). EPA inspectors observed concrete

washout on the ground outside of the designated area (see photograph P7180031.JPG). At the time of the inspection, some demolition debris waste remained stock piled at the Site (see photographs P7180051.JPG and P7180053.JPG). Vehicles are fueled on-site using a diesel fuel tank and fuel dispenser which Mr. DiGiovanni was unsure if the tank had secondary containment. At the time of the inspection, EPA inspectors did not observe fuel spills on the ground adjacent to the fuel tank but did observe that the tank was uncovered and exposed to stormwater (see photograph P7180034.JPG). According to on-site representatives a fuel spill has not occurred on-site to date. A spill kit is located on-site in the office trailer to be used in the event of a spill. Portable toilets are centrally located on-site for sanitary sewage collection (see photograph P7180056.JPG).

At the time of the inspection, Mr. DiGiovanni could not provide the EPA with the Site's log book or any other documentation of routine site inspections. According to Mr. DiGiovanni, the lack of inspection documentation was due to a change in Site project managers that occurred in May 2012. Mr. DiGiovanni stated that he had not been documenting daily operations in a log book since he became the Assistant Project Manager of the Site on May 17, 2012 but planned on doing so in the near future.

According to on-site records, on July 14, 2011, the Somerset-Union Soil Conservation District submitted a Deficiency Notice to Clark Developers, LLC regarding soil erosion controls at the Site. The notice asked that the silt fencing at the Site be re-stapled onto the stakes to remedy the deficiency.

Stormwater from the Site discharges to a Robinson Branch Tributary in the Rahway River watershed via an existing on-site storm sewer system and direct stormwater runoff. According to site plans reviewed on-site and visual observations at the time of the inspection, the storm sewer system collects stormwater runoff from two (2) curb drainage structures on Westfield Avenue upstream from the Site. The storm sewer system continues into the Site and collects stormwater runoff from the Site via five (5) on-site stormwater catch basins that were installed prior to demolition and have been kept in place to be used as part of the new construction (see photographs P7180035.JPG, P7180036.JPG, P7180037.JPG, P7180058.JPG, P7180059.JPG and P7180066.JPG). The storm sewer system outfall pipe discharges stormwater to the Robinson Branch Tributary and is located adjacent to the northwest Site property line immediately downstream from the Site's five (5) stormwater catch basins (see photographs P7180060.JPG to P7180065.JPG). At the time of the inspection, the banks of the Tributary were eroded at two (2) locations extending from the Site into the Tributary where soil deposits were observed in the Tributary at the base of these erosion channels. The first location of an erosion channel was observed where perimeter silt fencing at the Site was not keyed into the ground on the southside of the outfall structure (see photographs P7180039.JPG to P7180041.JPG) and the second location was observed downhill from uncovered soil stock piles where the perimeter silt fencing was down (see photographs P7180046.JPG to P7180049.JPG).

NON-COMPLIANCE ITEMS:

1. Part E.1 of the CGP states that "construction activity that may result in a stormwater discharge authorized by this permit shall be executed only in accordance with a

Stormwater Pollution Prevention Plan (SPPP) that consists of the erosion and sediment control component (SESCP) and the construction site waste control component.” EPA Inspectors identified deficiencies in the implementation of the SPPP and with the requirements of Part E.1 of the CGP at the Clark Developers, LLC Site as follows:

- a. Permittee failed to develop, implement and maintain the SESCO component of the SPPP in the following ways, as required by Part E.1.a of the CGP:
 - i. Perimeter silt fencing was not installed along the northeastern and southeastern property lines of the Site, as specified in the SESCO component of the SPPP (see photographs P7180029.JPG, P7180053.JPG and P7180059.JPG);
 - ii. Rips that formed holes in the installed perimeter silt fencing were observed at two (2) locations along the western and northwestern property line of the Site near the Robinson Branch Tributary (see photographs P7180045.JPG and P7180050.JPG);
 - iii. Perimeter silt fencing was observed not keyed into the ground on the south side of the outfall structure, from which the EPA inspectors observed an erosion channel from the Site, under the silt fence and extending into the Robinson Branch Tributary (see photographs P7180039.JPG to P7180041.JPG);
 - iv. Perimeter silt fencing was observed down and a sediment path from the uncovered soil stockpiles, over the down silt fencing and into the Robinson Branch Tributary (see photographs P7180046.JPG, P7180047.JPG, P7180048.JPG and P7180049.JPG);
 - v. Perimeter silt fencing was observed down on the north and east side of the outfall structure (see photographs P7180042.JPG, P7180043.JPG and P7180044.JPG);
 - vi. One (1) stormwater catch basin on-site contained torn filter fabric that was ineffective at preventing sediment from depositing into the stormwater catch basin (see photographs P7180067.JPG and P7180066.JPG); and
 - vii. Three (3) stormwater catch basins on-site did not contain filter fabric, as specified in the SESCO component of the SPPP (see photographs P7180035.JPG, P7180036.JPG, P7180037.JPG and P7180058.JPG).
- b. Permittee failed to develop and implement the Construction Site Waste Control Component of the SPPP as required by Part E.1.d and Part J of the CGP as follows:
 - i. The Site’s SESCO did not contain waste control practices and a construction site waste control plan was not provided at the time of the inspection, as required by Part E.1.d of the CGP;
 - ii. The designated concrete washout was not lined and bermed and was not clearly designated with a sign, as required by Part J.4.b of the CGP (see photograph P7180032.JPG); and
 - iii. Concrete washout was observed on the ground outside of the designated concrete washout area, in violation of Part J.4.b of the CGP (see photograph P7180031.JPG).

2. Part E.3 of the CGP states that the permittee shall conduct and document weekly inspections of the areas of industrial activity to identify areas contributing to the stormwater discharge authorized by this permit and evaluate whether the SPPP is being properly implemented and maintained, or whether additional measures are needed to implement the SPPP. Weekly inspection documentation from the start of the construction to the date of the EPA inspection was not provided.

AREAS OF CONCERN:

1. A greenish brown liquid was observed pooling at the south end of the Site and the source of this discoloration was not identified at the time of the inspection (see photograph P7180054.JPG).
2. It is recommended that the Site's Project Manager(s) attend Stormwater Pollution Prevention training due to both the lack of a pollution prevention program implementation and maintenance at the Site as well as the Assistant Project Manager's lack of knowledge regarding the existence of and requirements for complying with the NJDEPs Construction Activity Stormwater General Permit (NJG0088323).
3. The dirt and gravel entranceway observed on-site at the time of the inspection may not have been installed consistent with the stone stabilized entranceway design specifications in the Site's SESCO.
4. At the time of the inspection, the on-site diesel fuel tank was uncovered and exposed to stormwater. Additionally, Mr. DiGiovanni was unsure if the diesel fuel tank had secondary containment.

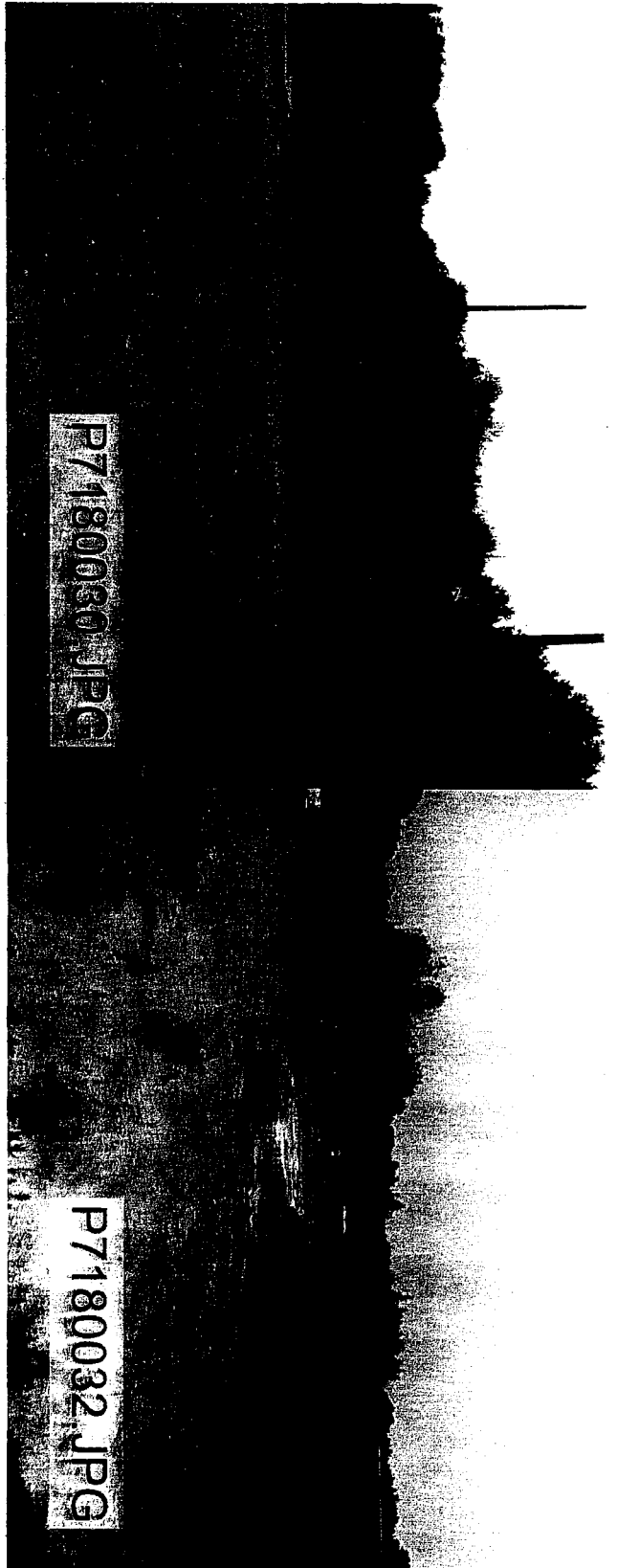
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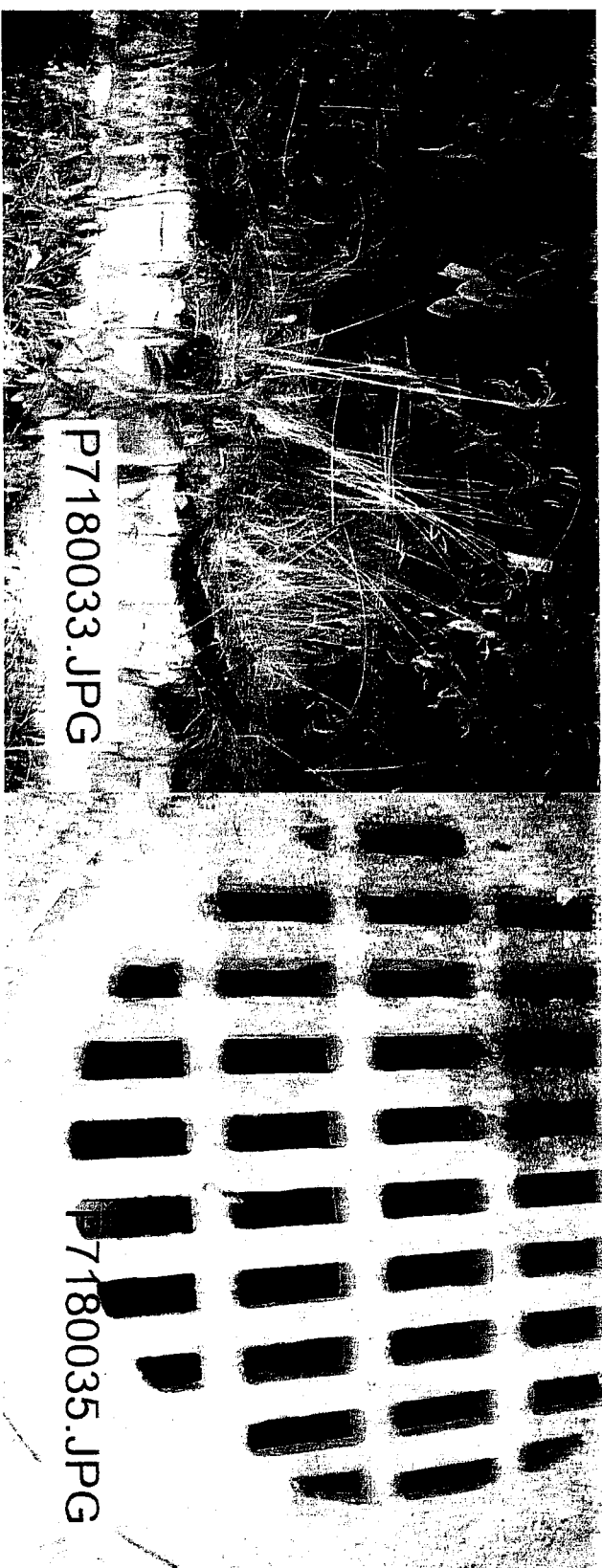
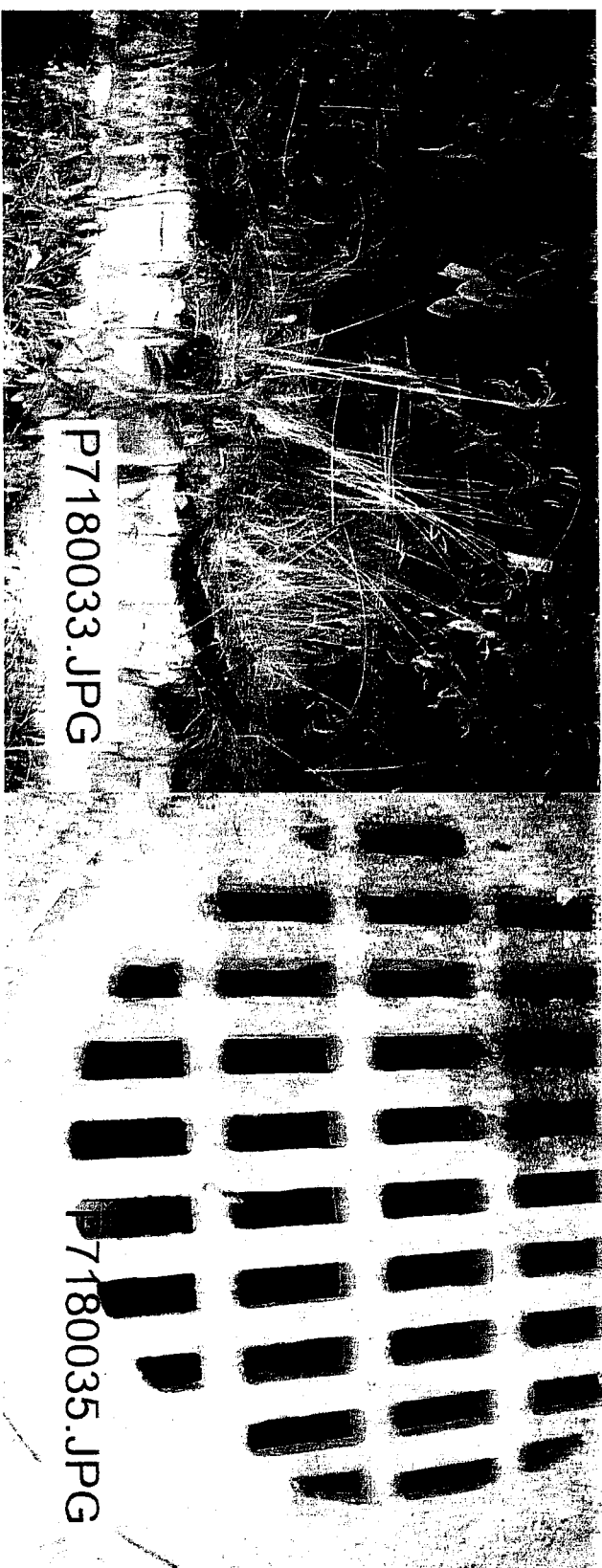
Photograph Log
Photographs
Authorization to Discharge

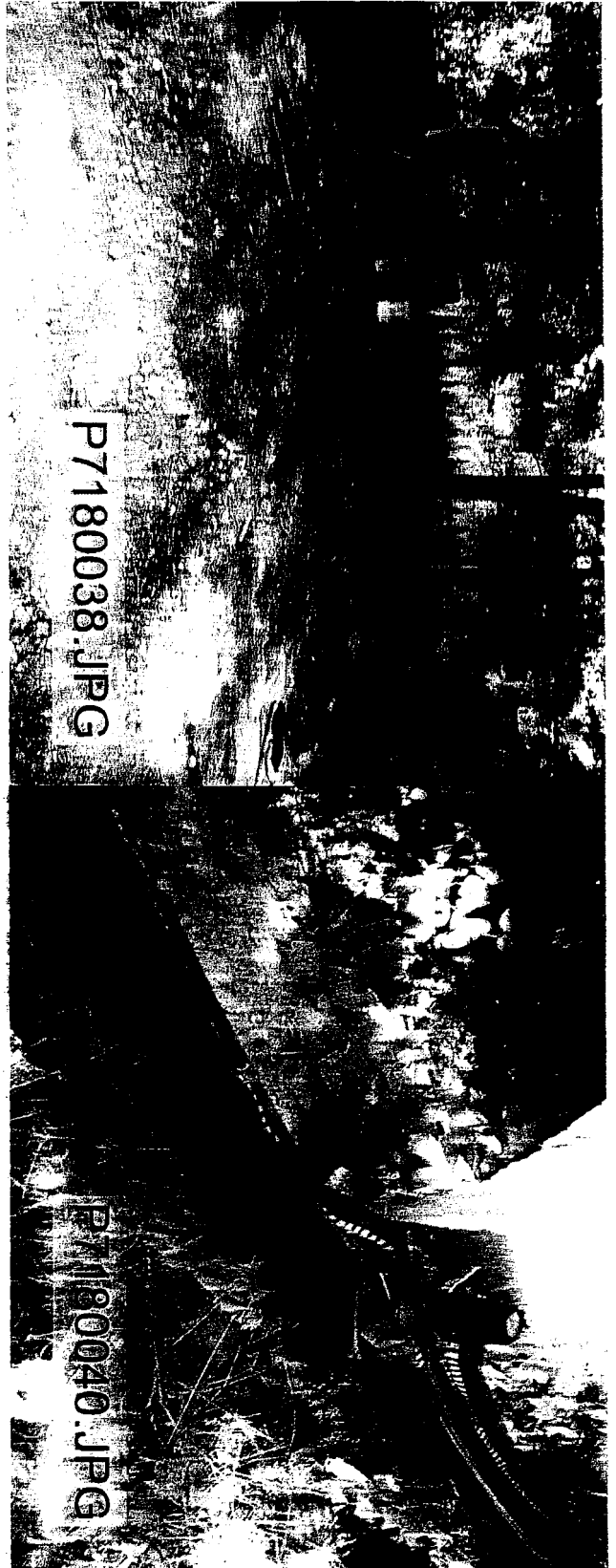
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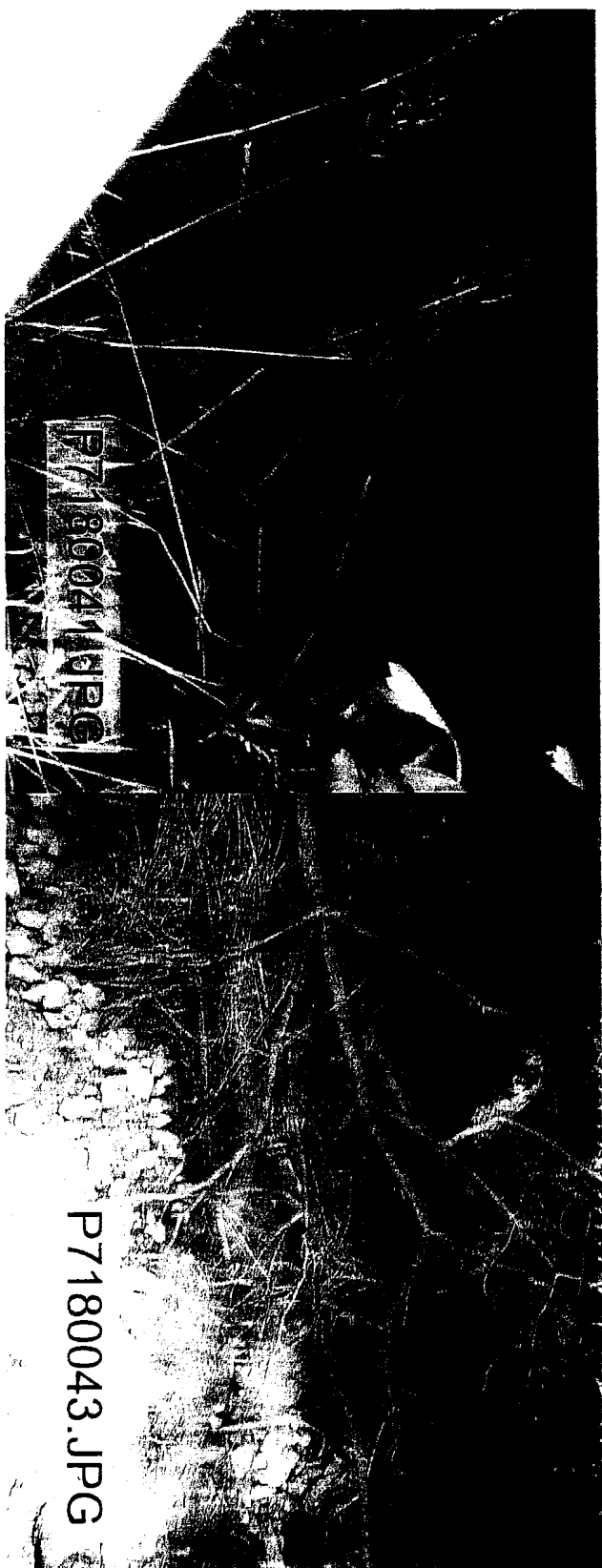
Photo Log – Clark Developers, LLC CEI photos taken July 18, 2012 Unedited Photographs Taken by Kimberly McEathron with Olympus Stylus 720 SW	
P7180029.JPG	Site boundary along Westfield Ave (view facing northwest)
P7180030.JPG	Dumpster, drums and stone stock piles in northern portion of site (view facing west)
P7180031.JPG	Close up of concrete washout on the ground not in designated location
P7180032.JPG	Designated location for concrete washout (view facing southeast)
P7180033.JPG	Stone curb at northern property line with perimeter silt fencing (view facing northwest)
P7180034.JPG	Diesel fuel tank located in northern portion of site (view facing southwest)
P7180035.JPG	Close up of Catch Basin #5 without filter fabric located immediately upstream from the outfall
P7180036.JPG	Catch Basin #5 without filter fabric located immediately upstream from the outfall
P7180037.JPG	Catch Basin #5 without filter fabric located immediately upstream from the outfall surrounded by disturbed soil (view facing south)
P7180038.JPG	Disturbed area and down perimeter silt fence at the outfall (view facing west)
P7180039.JPG	Close up of bank erosion along south side of outfall structure (view facing southwest)
P7180040.JPG	Close up of bank erosion along south side of outfall structure and soil erosion channel from site under silt fence (view facing northwest)
P7180041.JPG	Close up of silt fence not keyed into the ground at location from previous photograph (view facing northwest)
P7180042.JPG	Outfall structure with no filter fabric (view facing southwest)
P7180043.JPG	Disturbed area upstream from outfall structure with down silt fencing (view facing west)
P7180044.JPG	Close up of disturbed area upstream from outfall structure with down silt fencing (view facing west)
P7180045.JPG	Hole in perimeter silt fencing southwest of the outfall structure (view facing northwest)
P7180046.JPG	Down perimeter silt fencing immediately uphill from the stream and southwest of the outfall structure (view facing west)
P7180047.JPG	Unvegetated channel with sediment deposits from down silt fence into stream (view facing west)
P7180048.JPG	Uncovered soil stockpiles immediately uphill from down silt fence at the stream (view facing east)
P7180049.JPG	Uncovered soil stockpiles immediately uphill from down silt fence at the stream (view facing west)
P7180050.JPG	Perimeter silt fence not keyed into the ground and ripped adjacent to vegetated field at the western boundary of the property (view facing west)

P7180051.JPG	Demolition debris stock piles in southern portion of site (view facing south)
P7180052.JPG	Terminal Avenue within the construction site, gravel at the southwestern end and paved at the northeastern end (view facing northeast)
P7180053.JPG	Demolition debris stock piles on pavement located at the southeastern portion of the site (view facing southeast)
P7180054.JPG	Unidentified green/brown pooling liquid at eastern end of site
P7180055.JPG	Soil stockpiles along the southeastern boundary of the site (view facing southwest)
P7180056.JPG	Portable toilets located in the center of the site (view facing northwest)
P7180057.JPG	Sediment tracking on Terminal Avenue within the construction site (view facing northeast)
P7180058.JPG	Catch Basin #1 without filter fabric located northwest of the trailer (view facing northeast)
P7180059.JPG	Two storm drains in Westfield Avenue that drain to sites storm sewer system (view facing northeast)
P7180060.JPG	Site plan showing existing storm sewer system
P7180061.JPG	Site plan showing existing storm sewer system
P7180062.JPG	Site plan showing existing storm sewer system
P7180063.JPG	Site plan showing existing storm sewer system
P7180064.JPG	Site plan showing existing storm sewer system
P7180065.JPG	Site plan showing existing storm sewer system
P7180066.JPG	Catch Basin #2 containing torn filter fabric (view facing southwest)
P7180067.JPG	Close up of Catch Basin #2 containing torn filter fabric (view facing southwest)

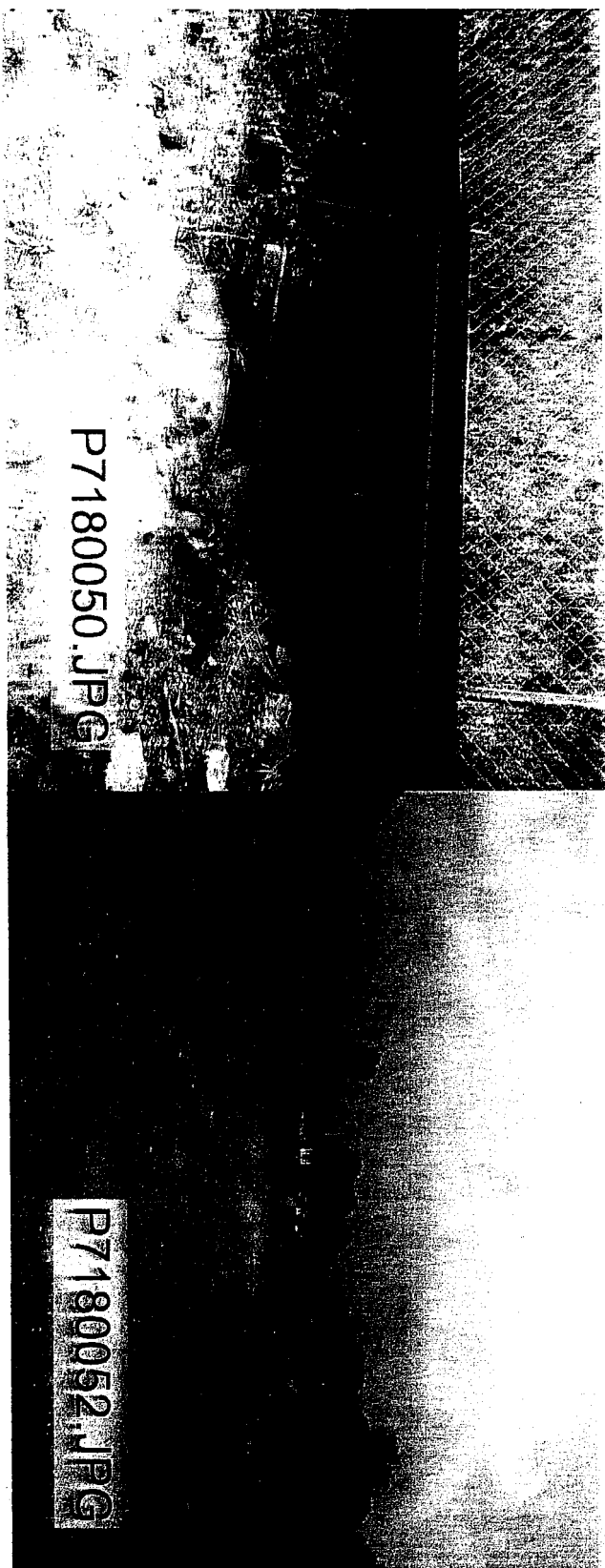


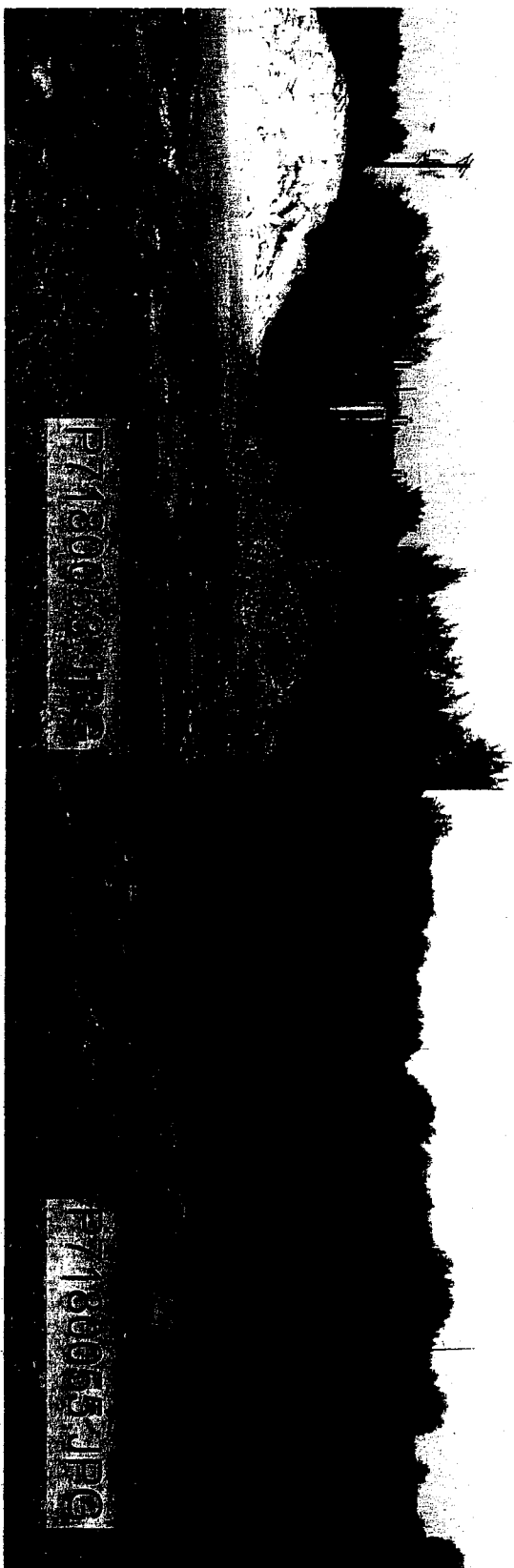
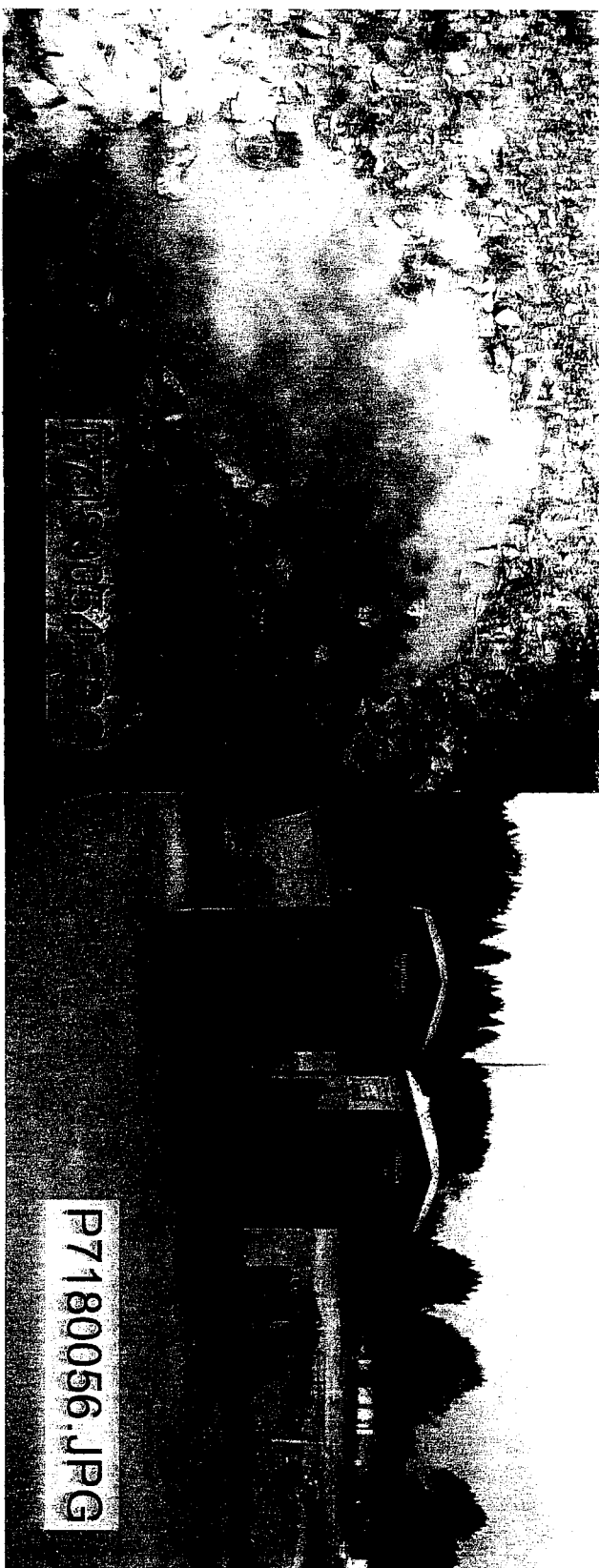


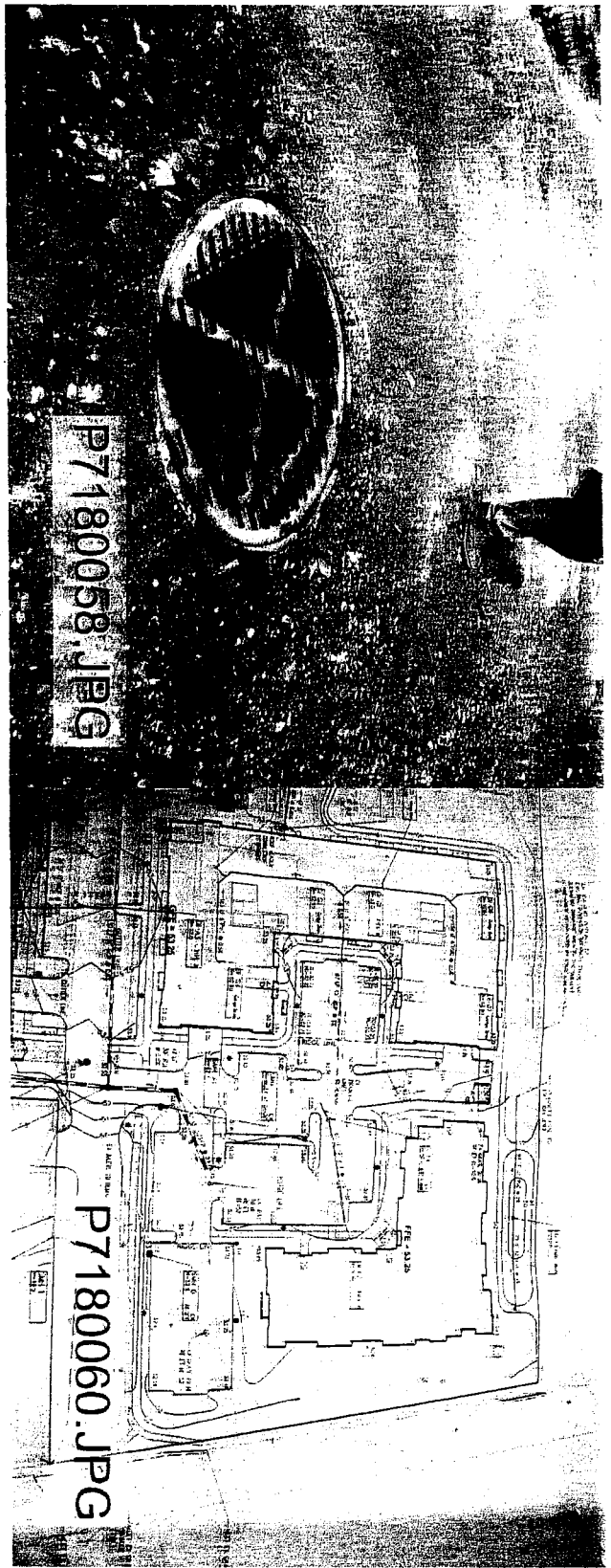


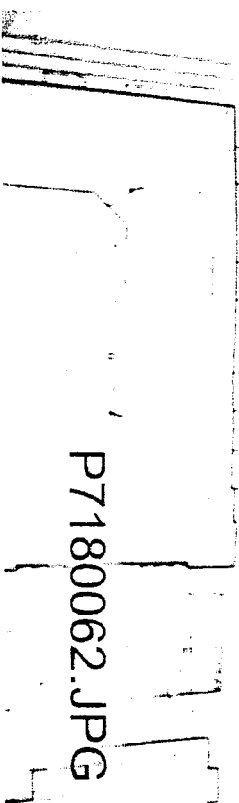




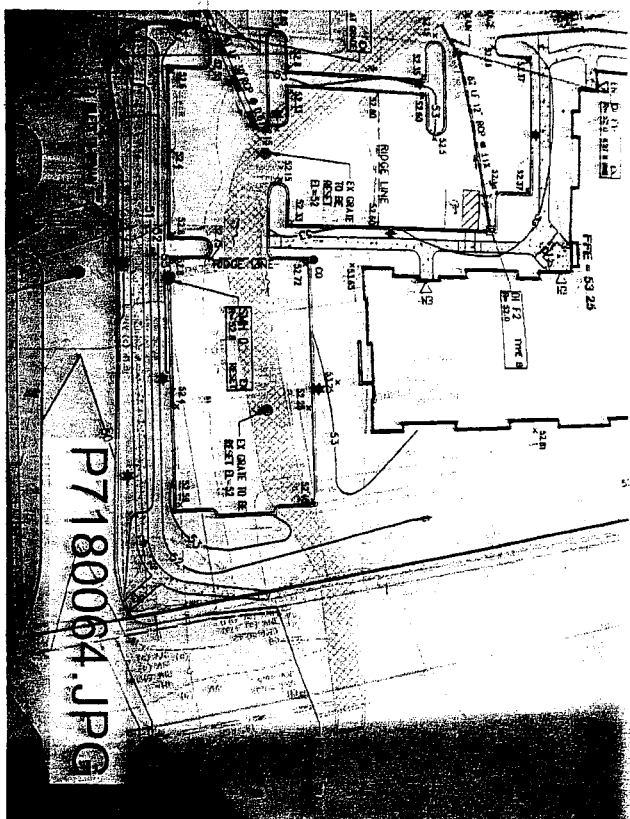




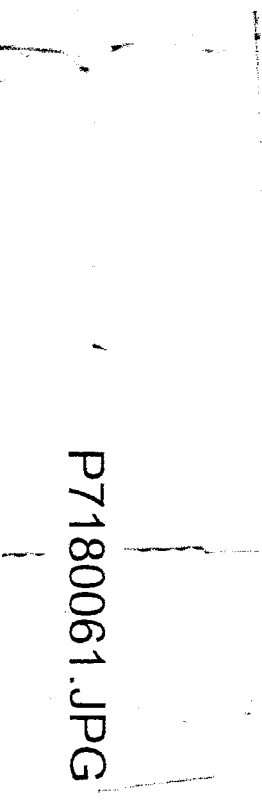




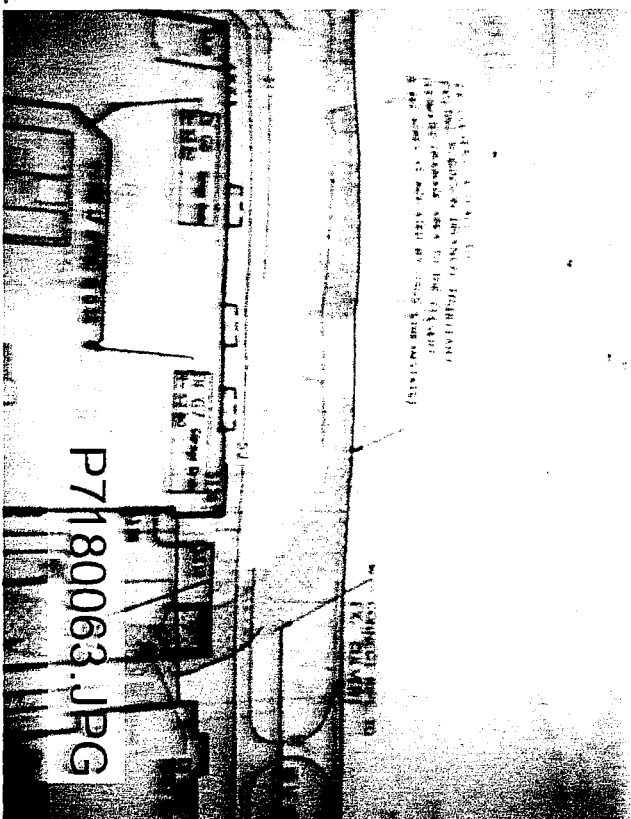
P7180062.JPG



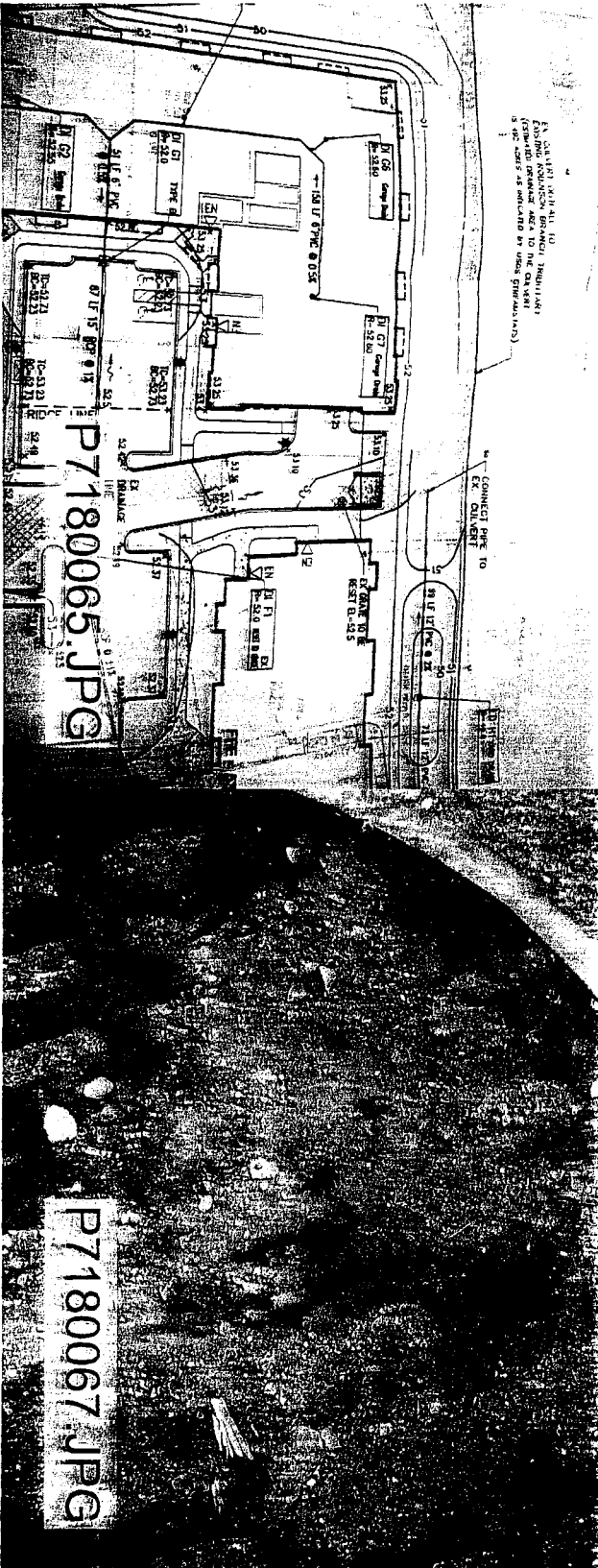
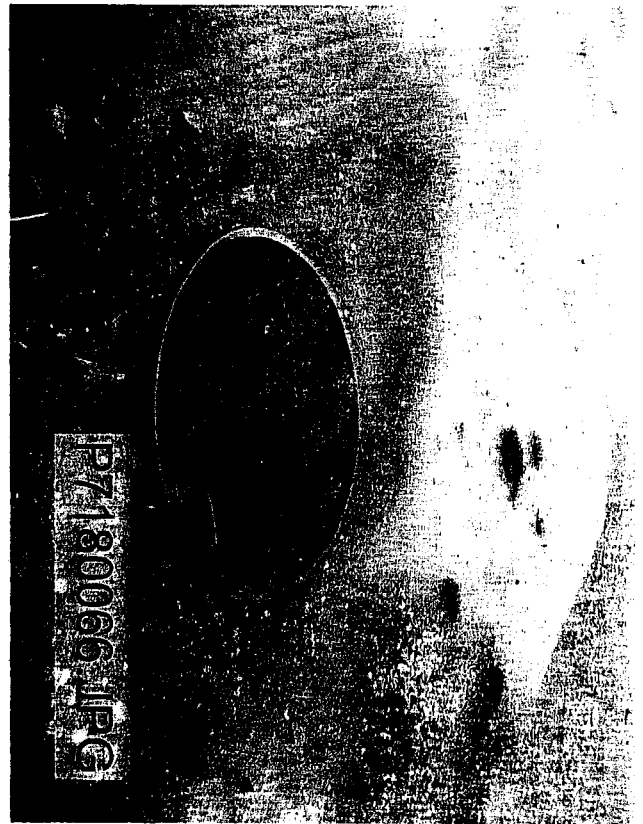
P7180064.JPG



P7180061.JPG



P7180063.JPG



TEMPORARY AUTHORIZATION

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Nonpoint Pollution Control
PO Box 029
Trenton, NJ 08625-0029
Phone: (609) 633-7021
Fax: (609) 984-2147

Payment Arrangement:
Pay via Credit Card
Paid Online: \$ 650.00
Paid On: 03-31-2011

This Authorization form is requested to be located at the regulated construction site at all times and be available for inspection by any authorized representative of the New Jersey Department of Environmental Protection. If you have designated an agent, it is your responsibility to notify your agent about this General Permit and its requirements.

AUTHORIZATION TO DISCHARGE**5G3 - Construction Activity Stormwater (GP)**

To ensure compliance during the construction activity please print out the Stormwater Construction Permit terms and conditions at http://www.state.nj.us/dep/dwq/pdf/5g3_finalpermit.pdf

Project Name:

Proposed Residential Development

PI ID#: [N/A]**Portal ID#:**

120408

Facility Address:

268-300 Terminal Avenue West
Clark Twp (Union), NJ 07066

NJPDES#: [N/A]**Type of Activity:** Stormwater Discharge General Permit Authorization New**Owner:**

Clark Developers, LLC
820 Morris Turnpike
Short Hills (Essex), NJ 07078

Operating Entity:

Clark Developers, LLC
820 Morris Turnpike
Short Hills (Essex), NJ 07078

Issuance Date:

03/31/2011

Effective Date of Authorization:

03/31/2011

Your request for authorization under NJPDES General Permit No. NJD088323 has been approved by the New Jersey Department of Environmental Protection.

A handwritten signature in black ink, appearing to read "Ed Frankel".

Soil Conservation District - SOMERSET-UNION

308 Milltown Road, Somerset County 4-H Center
Bridgewater, NJ, 08807, (908) 526-2701

Ed Frankel P.P. Section Chief
Bureau of Nonpoint Pollution Control
Division of Water Quality
New Jersey Department of Environmental Protection

Electronically certified by the responsible party, Elena
Compter on 03/31/2011

Date: 03/31/2011